

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

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| AMANULLA KHAN, <i>ET AL.</i> , | § | |
| <i>Plaintiffs,</i> | § | |
| | § | |
| vs. | § | CIVIL ACTION H-05-2995 |
| | § | |
| HOUSTON NFL HOLDINGS, L.P., <i>ET AL.</i> , | § | |
| <i>Defendants.</i> | § | |

ORDER

This matter is before the court on plaintiffs’ motions to compel and for sanctions against the City of Houston (Dkts. 73, 83). Based on the submissions of the parties and argument at a hearing on June 1, 2007, the court concludes that the City of Houston has failed to comply with its discovery obligations in this case.

The City’s egregious conduct in this case includes failing to produce a relevant document, “Houston Police Department Discipline Statistics Jan. 1, 2002 to December 31, 2006,” until the end of the May 10, 2007 deposition of Houston Police Chief Harold Hurtt. The City concedes the document is responsive to a document request served upon the City approximately a year before Chief Hurtt’s deposition.¹ Counsel for the City received a copy of the document two days prior to the deposition and had it with him at the deposition, but did not offer it for review by plaintiffs’ counsel before counsel for the City commenced his

¹ The document is responsive to Khan’s Request for Production No. 2:

Produce all reports, statistical compilations, or internal memoranda created, received or commissioned by the City concerning, discussing, evidencing, or relating to police brutality, use of excessive force, abuse of authority, police corruption, or other disciplinary problems within the Houston Police Department.

own questioning of Chief Hurtt. Because counsel for the City used all the time remaining in the court-limited two hour deposition, plaintiffs' counsel did not have an opportunity to question Chief Hurtt on the newly produced document. This is a flagrant abuse of the discovery process. The City also has failed to conduct an adequate search of its records for other responsive documents regarding disciplinary proceedings in the Houston Police Department. It is therefore

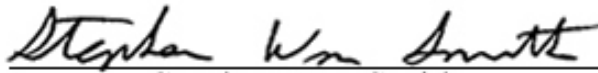
ORDERED that plaintiffs' motions (Dkts. 73, 83) are granted in part as follows:

1. The City shall make Chief Hurtt available for deposition on or before June 8, 2007. Plaintiff shall have two hours to depose Chief Hurtt regarding documents not produced to plaintiffs prior to the last deposition. Defendants shall have 15 minutes in toto for questioning. The City will bear the costs of the deposition, including expedited processing. The City may select the court reporter and video service to be used.
2. On or before Tuesday, June 5, 2007, the City shall produce the study of disciplinary arbitration results referenced in Chief Hurtt's deposition and the monthly reports of complaints and commendations referenced by Executive Assistant Chief McClelland in his deposition.
3. Plaintiffs shall have until June 12, 2007 to respond to defendants' pending summary judgment motions.
4. The discovery deadline is extended until July 13, 2007.
5. On or before July 2, 2007, the City shall make available for review by plaintiffs' counsel all IAD files for relevant categories of cases for the 5 years prior to October 29, 2004, the date of the incident in question.
6. The City shall make a good faith effort to produce prior to the deposition of Chief Hurtt all IAD files related to complaints against defendants Borza, Carroll, and Gutierrez. In any event, such documents must be produced on or before July 2, 2007.

7. If necessitated by newly discovered information, plaintiffs may take up to 2 additional depositions (not including Chief Hurtt) before the discovery cut-off of July 13, 2007. Plaintiff may also serve revised expert reports on or before July 13, 2007.
8. The court will consider imposing additional monetary sanctions after close of discovery.

This case remains set on Judge David Hittner's August, 2007 trial docket.

Signed at Houston, Texas on June 1, 2007.



Stephen Wm Smith
United States Magistrate Judge

